

## REMARKS

This is intended as a full and complete response to the Office Action dated March 3, 2008, having a shortened statutory period for response set to expire on June 3, 2008. Applicant requests entry and consideration of the following remarks in response to the Office Action.

Claims 22-26 and 28-45 are currently pending in the application. Claims 1-21, 27, and 46 have been canceled.

### Rejections

#### 35 U.S.C. § 103(a)

Claims 22-26 and 28-45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al. (EP 0 741 145).

Applicant respectfully argues that Katayama does not teach, show, or suggest the currently pending claims. Claims 22, 24, 33, and 43 state that at least one of Cp<sup>1</sup> and Cp<sup>2</sup> must be a fluorenyl group.

The Supreme Court recently rejected a formalistic and rigid application of the teaching, suggestion, or motivation test as an exclusive test in the obviousness inquiry, it nevertheless made clear that an invention “composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). The Supreme Court further stated that “it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine elements in the way the claimed new invention does.” *Id.*

Applicants respectfully argue that there is no motivation to modify the reference, nor does it provide a prima facie case of obviousness. First, the reference relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference. *See, Karsten Mfg. Corp. v. Cleveland Gulf Co.*, 242 F.3d 1376, 1385 (Fed. Cir. 2001). Second, the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *See, Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1209 (Fed. Cir. 1991).

Particularly, Applicants respectfully argue that Katayama broadly discloses metallocene structures. (See paragraphs [0006]-[0019] of Katayama). Katayama does not disclose the use of phosphorus in any of the catalyst components. Paragraph [0004] of Katayama mentions

references that comprise a phosphorous atom, but such references are present to distinguish Katayama. Therefore, Katayama does not teach, show, disclose, or suggest, the presently claimed invention, particularly with regard to the use of phosphorus.

Additionally, the Examiner states that "dimethylsilylindenyl triphenylphospholyl titanim dichloride" is disclosed at page 7, line 12-13, and "ethylenecyclopentadienyl pyrrolyl titanium dichloride" is disclosed at page 5, line 58, in Katayama. After an exhaustive and extensive review of Katayama, Applicant has not been able to locate where Katayama states these referenced catalyst components. Katayama does not disclose a catalyst system comprising a fluorenyl or the specific catalyst systems listed in claim 42. (See paragraphs [0006]-[0019] and Examples of Katayama). Bridged fluorenyl-containing metallocene catalyst components in general, and the bridged fluorenyl-containing metallocene catalyst components presently claimed in particular, have a very specific electronic environment and do not have isomers like the bisindenyl catalyst components.

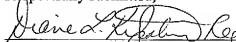
Also, the Examiner states that "one would have understood that all positions including nitrogen or phosphorus position in the ring can be a bridging position", but the Examiner fails to state any evidence supporting this statement. Applicants respectfully request an affidavit, under 37 C.F.R. 1.104, from the Examiner providing such support.

Nowhere is there a suggestion or motivation to modify Katayama to obtain the present claims. Applicant respectfully requests withdrawal of this rejection and allowance of the claims.

In conclusion, Applicant submits that the reference cited in the Office Action does not teach, show, or suggest the claimed features. Having addressed all issues set out in the Office Action, Applicant respectfully submits that the claims are in condition for allowance and respectfully requests the same.

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Respectfully submitted,



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